

### **3301.17: BC (Backcountry)**

The purpose and intent of the BC Zoning District is to retain the relatively undeveloped character of backcountry areas in the County while allowing for very low-impact development, consistent with the type of development that historically occurred in the area. Backcountry areas can loosely be defined as more remote areas typified by lack of maintained and improved roads, little or no utilities or infrastructure and very limited or sparse development. Characteristics that may be present include sensitive environmental areas (i.e. wetlands, steep slopes, sub-alpine forest or tundra), historic mining remnants, high ridges and alpine peaks and areas that provide scenic views. Development in many of these areas can be difficult due to limited access, steep terrain and other site constraints. The BC Zoning District is intended to provide for development patterns, intensity, scale and impact that are harmonious with the characteristics and constraints in backcountry areas. Specific standards for uses in the BC Zoning District are listed in Section 3514 et seq.

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### **3514: Backcountry (BC) Zoning District Standards**

#### **3514.01: Purpose and Intent**

The Purpose and Intent of the BC Zoning District is outlined in Section 3301.17, establishing the BC Zoning District. The purpose and intent of the BC Zoning District is further defined in this Section.

- A. A primary intent of the BC Zoning District is to limit improvements to backcountry roads as a means of maintaining the area's existing historic character and as a means of preserving historic access methods. Property owners in the BC Zoning District must recognize that access to their ~~properties~~ property may not be legally perfected, access may be restricted in the winter, and that allowed improvements to roads used for summer access may be limited. Because of these limitations, emergency vehicle access to properties in the BC Zoning District may not be feasible. Public services and facilities will typically not be provided in the BC Zoning District. Persons interested in owning land with ready access to public services and facilities are advised to seek out the more developed/urban areas of the County.
- B. The BC Zoning District provides tradeoffs to backcountry property owners. There are limitations on the size of structures. However, property owners are no longer required to improve roads accessing their properties to County standards, as is typically required under existing laws. ~~This~~ The road improvement requirement ~~is~~ was a significant obstacle to backcountry property owners who ~~may wished~~ to locate-build a small cabin/structure on their property.
- C. Development in the BC Zoning District shall be subject to the site plan review provisions contained in Section 12600 et seq.
- D. Development in the BC Zoning District is intended to be harmonious with the characteristics of backcountry areas and these areas may have limited access to public services and facilities and for emergency vehicles; therefore commercial uses are limited to those which have been determined to be compatible with the character of the BC zoning district. Uses that are typically more compatible with developed areas such as but not limited to Short-term Rental and Bed and Breakfast operations are not permitted on BC zoned properties.

#### **3514.02: Use Standards**

Uses allowed in the BC Zoning District are identified in Figure 3-2. For some of these uses, additional standards apply, as identified below:

- A. **Mining:** Mining shall be limited to mining as defined in Chapter 15 that has been permitted through a limited impact permit (i.e.110 permit) issued by the Division of Reclamation, Mining, and Safety (DRMS) and applicable County regulations. At the discretion of the Planning Director, mining operations not covered by a section 110 permit may be permitted in the BC Zoning District with a conditional use permit (Class 4) when such operations are specifically tied to the purposes of reclaiming historic mining impacts and/or improving habitat or the natural environment.

- B. **Single Family Dwellings:** Single-family dwellings are limited to a maximum of 2,400 square feet of floor area. Actual dwelling size is determined according to Section 3514.05-04 et seq.
- C. **Nordic Ski Huts:** Nordic ski huts ~~shall~~ may be allowed subject to a conditional use permit up to a maximum size of 2,400 square feet. Size of the hut shall be determined in accordance with the standards for single-family dwellings, as outlined in Section 3514.05-04 et seq.
- D. **Packing and Outfitting Operations:** Packing and outfitting operations ~~shall~~ may be allowed subject to a conditional use permit serving no more than 20 persons per day, up to a maximum size of 2,400 square feet. Size of the packing and outfitting facilities shall be determined in accordance with the standards for single-family dwellings, as outlined in Section 3514.05-04 et seq.
- E. **Commercial Timber Harvest and Extensive Tree Clearing:** Commercial timber harvesting and /or extensive tree clearing in excess of one-half acre ~~shall~~ may be allowed subject to a Class 2 conditional use permit (see Section 12300 et. seq.). ~~Commercial timber harvesting or tree clearing for the purposes of site clearing to accommodate structures, roads or driveways, leach field areas and utilities, as allowed in the site disturbance and vegetation removal standards of this section, is exempt from the requirement to obtain a conditional use permit, even when the timber is sold by the property owner. In addition to the review criteria listed in Section 12300 of the Code, the Review Authority shall also consider the following criteria in reviewing a commercial timber harvest or extensive tree clearing conditional use permit application:~~
  - 1. Commercial timber harvesting and extensive tree clearing activities shall utilize best management practices (“BMPs”) for timber harvesting, as specified in the Colorado Forest Stewardship Guidelines or most recent similar publication as prepared by Colorado State Forest Service (CSFS). The applicant shall provide a site plan (not required to scale) showing the proposed harvest activities and indicating the BMPs being employed. A forest management plan may substitute for this site plan. The Planning Department shall consult with the CSFS to determine that BMPs, at a minimum, meet the Guidelines specified above.
  - 2. Where new roads are constructed for commercial timber harvesting and tree clearing purposes, the roads shall be temporary. Once the timber harvest or tree clearing is complete, the road surface shall be regraded, revegetated and reclaimed to ~~natural condition~~ the satisfaction of the County Engineer.
  - 3. Reclamation and/or revegetation of areas disturbed by timber harvest activities and tree clearing is required, including noxious weed management. The applicant shall provide a bond to cover reclamation costs as a condition of approval.
- F. **Trails and Trailheads:** The Construction of new trails and trailheads in the Backcountry (“BC”) Zoning District shall require a Class 2 Conditional Use Permit review utilizing the criteria as contained in Section 12302.04.
- G. **Storage:** Outdoor Storage is permitted only in accordance with the provisions in Section 3815.02, with the additional requirement that regardless of parcel size, all outdoor storage in the BC Zoning District shall be screened as described in Section 3815.02.B. Motor vehicle storage is permitted in accordance with Section 3815.07, and Recreational Vehicle, Boat or Trailer storage is permitted in accordance with Section 3815.08.B.

### **3514.03: Road and Driveway ~~Improvement and Maintenance~~ Limitations, Standards and Regulations**

Improvements to roads and driveways not meeting the standards established under these regulations are prohibited. To the maximum extent practicable, roads and driveways shall be located in a manner that reduces site disturbance and the visibility of the structure and associated improvements. In order to achieve the foregoing, access roads and/or driveways shall access the structure from the least visible location, whether that is from above, to the side, or below the structure. Structures shall be located on the site and driveway length shall be minimized in a manner that reduces the amount of site disturbance and visual impacts. The standards in this Section are the maximum improvements allowed; roads and driveways in the Backcountry zone are intended to maintain the historic level of improvements and not intended to promote increased usage by passenger vehicles.

- A. **Improvements to Existing Roads and Driveways:** Improvements to existing roads ~~and driveways~~ shall not be allowed, unless a conditional use permit is approved by the Review Authority. provided the ~~improvements to existing driveways do shall~~ not exceed the requirements specified in this section and ~~provided that improvements should~~ occur within the existing ~~road~~ alignment. Road and driveway realignments may in certain cases be allowed in conjunction with a conditional use permit if the County Engineer

determines that the realignment would more effectively mitigate potential environmental impacts (e.g. erosion, wetland protection). If required by the County, access easements or evidence of allowances across private property and/or National Forest System lands must be provided for any road realignments.

- B. **Construction of New Road and Driveway Improvements:** Construction of new roads, driveways and bridges/stream crossings ~~shall may~~ be allowed, provided there is no existing access to the property determined to be adequate by the County Engineer and provided the new road or driveway complies with the road/driveway standards and the site disturbance/design standards of this section. New temporary roads, for private timber harvesting or mining purposes only, may also be allowed subject to the standards of this section, provided that the road surface is regraded, ~~and~~ revegetated ~~and reclaimed to the satisfaction of the County Engineer to a natural condition~~ once the logging or mining is discontinued.

1. Where permitted under these regulations, road and driveway construction in the BC Zoning District shall comply with the following guidelines and the site disturbance standards:
  - a. **Travelway Width:** Ten (10) feet maximum for roads and 8 foot maximum for driveways, with turnouts provided at specified distances as determined by the County Engineer.
  - b. **Grade:** Twelve percent (12%) maximum. ~~Grades exceeding twelve percent (12%) may be allowed by approval of a conditional use permit as required by these regulations.~~
  - c. **Design Capacity:** 100 ADT
  - d. **Surface:** Gravel or natural surface, no pavement or asphalt is allowed. Use of materials imported from off-site is discouraged and shall be minimized.
2. All roads and driveways shall be designed and constructed using best management practices (“BMPs”) to ensure adequate erosion control.
3. **Recognition of Access Across Private Property:**
  - a. When a proposed or existing road or driveway crosses through private property or National Forest System lands, an Applicant shall make reasonable efforts to obtain all necessary easements related to such access, and if deemed necessary by the County, the Applicant shall dedicate necessary rights-of-way related to such access to the County.
  - b. Notwithstanding the foregoing, if an Applicant is unable to secure such rights of access despite appropriate diligent efforts to accomplish the same, the County may, in the exercise of its sole discretion, recognize such allegedly established historic access and allow the construction of a home in the BC Zoning District. The County may allow this, provided the Applicant provides an appropriate combination of the following: (1) bona fide affidavits of prescriptive use of such road or driveway crossing private lands in a form acceptable to the County, or such other form of tangible and demonstrative evidence regarding such claimed historic use; (2) in cases where a new road or driveway alignment is necessitated and approved, express easements across such intervening property shall be required; and (3) in cases where a road or driveway crosses National Forest System lands, evidence of a special use permit, an express acknowledgement or allowance of access from the USFS, or other appropriate demonstration of legal right to cross such National Forest System lands deemed acceptable by the County. The County may also require a license and maintenance agreement outlining items including but not limited to: maintenance responsibility and standards for construction in the right-of-way, winter access limitations, and confirming the over the snow access route to be used by the applicant.
4. **Variances.** Deviations from these regulations may be allowed subject to obtaining a variance from the Design and Construction Standards pursuant to Section 5600 et seq; including a finding by the County Engineer that the proposed roadway will minimize environmental impacts and not create a hazardous or unsafe condition.

- C. **Winter Plowing:** Winter access to Backcountry zoned parcels is generally limited to over the snow access. ~~Any All~~ winter plowing of roads and driveways<sup>2</sup> in the BC Zoning District (between November 1 and April 30), including plowing that existed at the time these regulations were initially adopted, is required to obtain a conditional use permit. The Review Authority may approve a conditional use permit provided the plowing is consistent with the following criteria:

1. Plowing shall be done in a manner that maintains the rural backcountry character to the maximum extent practicable.
- ~~2.~~ A minimum amount of snow (approximately 4 inches) shall be required to be left on the road surface to

allow for over-snow use, where necessary to accommodate other users. The minimum amount of snow left on the road surface shall be determined by the Review Authority, ~~and~~ based on site characteristics and effects on travel.

~~32.~~ If the road is considered a significant winter route as designated in a County master plan or receives documented substantial current and historic use as a recreational route, and when deemed necessary by the Review Authority, alternative access for other road uses (i.e. skiers) shall be required to be provided for safety purposes.

~~43.~~ Plowing of the existing road shall not create a potentially hazardous and unsafe condition for vehicles. ~~If a conditional use permit for winter plowing is denied, a finding must be made that adequate parking is available to accommodate at least two vehicles of the permit applicant at or near the location where existing plowing terminates.~~

~~\*4.~~ Driveways are exempt from the requirement to obtain a conditional use permit for winter plowing if they are 1) less than 400 feet long, and 2) used exclusively to provide access to a residence (not used as a travel way for other users).

~~D. **Grades Exceeding Twelve Percent (12%):** Roads and driveways exceeding twelve percent (12%) grade may be allowed subject to a conditional use permit (see Section 12300 et seq.), the standards of Section 3514.05.C, and the following criteria: As determined by the County Engineer, the proposed roadway will minimize environmental impacts and not create a hazardous and unsafe condition for vehicles.~~

#### **3514.04: Other Restrictions on Roads and Driveways**

- ~~A. Improvements to roads and driveways not meeting the standards established under these regulations are prohibited.~~
- ~~B. To the maximum extent practicable, roads and driveways shall be located in a manner that reduces site disturbance and the visibility of the structure. In situations where visibility would be increased due to the location of the road or driveway, the road or driveway shall access the structure either from above the structure or to the side and not from below.~~
- ~~C. Structures shall be located on the site, and driveway length shall be minimized, in a manner that reduces the amount of site disturbance and visual impacts.~~

#### **3514.0504: Development Standards**

##### **A. Density and Minimum Parcel Sizes:**

For the purposes of subdivision or rezoning, the following standards shall apply:

1. **Density:** Maximum density for any parcel shall be one (1) unit per 20 acres.
2. **Minimum Parcel Size:** Minimum parcel size shall be 20 acres, except for parcels created through approved rural land use subdivisions. Legally created parcels ~~under less than~~ 20 acres in size in the BC Zoning District existing as of ~~the date these regulations were last amended (effective August 14, 2007)~~ are considered legal nonconforming parcels and shall not require a nonconforming parcel plan review. ~~P~~rovided, however, that all parcels are subject to the County's merger provisions as established in Section 14101.02 F.

##### **B. Structure/Dwelling Size:**

1. ~~4.~~ **Base Allowance:** For any parcel of two (2) acres or less a maximum of 750 square feet of floor area shall be allowed.
  - ~~a. **Upper Blue and Ten Mile Basins:** For any parcel of two (2) acres or less a maximum of 750 square feet of floor area shall be allowed.~~
  - ~~b. **Snake River Basin:** For any parcel of two (2) acres or less a maximum of 900 square feet of floor area shall be allowed.~~
2. ~~2.~~ **Additional Allowance:** For each additional acre of land in excess of two (2) acres, an additional 50 square feet of floor area is allowed up to a maximum of 2,400 square feet. Additional square footage shall be granted for fractional acreage (e.g., 2.75 acres would allow for 787.5 sq. ft. of floor area ~~in the Ten Mile and Upper Blue Basins and 937.5 sq. ft. of floor area in the Snake River Basin~~).
3. ~~3.~~ **Accessory Structures:** Accessory structures ~~such as including but not limited to~~ garages, ~~carports,~~ storage sheds, and greenhouses are allowed up to a maximum total size of all accessory structures of 600 square feet as measured by square footage using the exterior walls. For structures without walls such as

covered porches and carports which have one or more open side, the structure size shall be the entire area beneath the roof structure, in accordance with the definitions in the Summit County Building Code.

Accessory structures can be attached or incorporated into the primary residence, or can be detached provided that the structures are sited in close proximity to the primary residence so that site disturbance is minimized. Accessory uses are encouraged to be attached or incorporated into the primary residence whenever possible, in order to reduce site disturbance and visual impacts.

4. **Mechanical and Equipment Rooms:** The area of mechanical and/or equipment rooms shall be considered as part of the floor area of the type of structure they are serving (i.e. a mechanical room in a dwelling shall be considered part of the dwelling floor area). The floor area of a mechanical room serving a dwelling and an attached accessory structure may count towards either the dwelling or accessory structure size limits.

5. **Covered Porches:** Covered porches shall be counted as either dwelling floor area or accessory structure size depending on the classification of the structure to which they are attached.

6. **Eaves and Overhangs:** Eaves and roof overhangs for all structures shall be limited to a maximum of three (3) feet measured from the exterior wall to the outer edge of the eave. Eaves and overhangs in excess of these limits shall be counted as either dwelling floor area or accessory structure size depending on the classification of the structure.

3-7. **Decks:** Decks are limited to a maximum total area of 150 square feet. Deck areas are an additional structural allowance and are specifically recognized as an exception from the dwelling and accessory structure size limitations described herein. Covered or enclosed areas of decks shall be considered as described in "Covered Porches", above.

4-8. 4. ~~Parcel Assemblages:~~ **Parcel Assemblages:** Parcels can be assembled to meet the acreage thresholds and formulas described above in Section 3514.0504.B.2. Parcels do not have to be contiguous, but all parcels involved in the assemblage must be located within the BC Zoning District. This provision allows for property owners to voluntarily transfer floor area allowances from one (1) or more parcel(s) to another in the BC Zoning District to allow a larger structure size. For the purposes of this section, the parcel proposed for development is referred to as the "developed" parcel, and all other parcels involved in the parcel assemblage are referred to as the "protected" parcel(s).

a. **Base Allowance for Other Parcels:** For non-contiguous parcels used to assemble additional acres to increase the structure size, an additional 50 sq. ft. of floor areas is allowed per acre (as described in these regulations). Said non-contiguous parcels involved in the transfer do not have a base allowance of 750 sq. ft. ~~or 900 sq. ft. (as described in these regulations)~~ for assemblage purposes. The square footage that can be transferred is based on the total acreage of all parcels assembled (e.g., if a property owner ~~in the Snake River Basin~~ assembles two 2.5-acre parcels, the property on which the owner chooses to build would get the base allowance of ~~900-750~~ sq. ft. for the first two acres plus 25 sq. ft. for the 0.5 acre. Additionally, the property owner can transfer 50 sq. ft. per acre from the other 2.5 acre parcel (2.5 acres x 50 sq. ft. = 125 sq. ft. for a total house size of ~~1,050-900~~ sq. ft.).

b. **Disposition of Parcels Used in Assemblage:** Where parcels are assembled to increase structure size, title to all parcels used for the assemblage (except the parcel where a structure is proposed) shall be transferred to Summit County via an instrument recorded in the Office of the Summit County Clerk and Recorder. However, in unique or rare situations the County may determine that it is not appropriate to transfer title/ownership of a property to the County, but instead title/ownership may be retained by the current owner or transferred to another party (e.g., the U.S. Forest Service). Under these circumstances, a perpetual restrictive covenant or other document enforceable by the County and in a form acceptable to the County shall be recorded in the Office of the Clerk and Recorder. Such restrictive covenant or document shall clearly describe the disposition of the property and shall prevent development or uses inconsistent with the Open Space Zoning District. The transfer of title/ownership or other approved restriction shall be approved by the County and recorded prior to issuance of a building permit.

c. **Review Process and Criteria for Approval:** All applications for a proposed parcel assemblage are required to obtain approval from the BOCC and shall follow the Class 6 development review process (refer to Section 12000 et. seq.) In addition, all applications shall be referred to the applicable basin planning commission for review and comment, and legal notice of the Class 6 development review process shall be sent to all property owners within 300 feet of the property boundary, as specified in



Section 13103.01.B.5. The following criteria must be met for the BOCC to approve a parcel assemblage:

- i. All properties included in the proposed parcel assemblage are legal parcels in accordance with the applicable provisions of this Code, and, if applicable, are in compliance with the merger of nonconforming parcels requirements specified in Section 14101.02.F.
- ii. The applicant and/or authorizing property owner(s) have an ownership interest in all involved parcels sufficient to proceed with the proposed parcel assemblage, including clear title and no encumbrances or restraints, private or otherwise, on the title that would preclude its eligibility to be used for parcel assemblage.
- iii. The applicant has provided certification from the County Treasurer's office that all ad valorem taxes applicable to the proposed parcel assemblage, for years prior to the year in which approval is under consideration, have been paid in accordance with all applicable requirements for collection of property taxes.
- iv. All known environmental or safety concerns or issues on the protected parcel(s) shall be disclosed by the property owner. The County shall have reasonable access to the property to evaluate it for environmental concerns. In the event the County or landowner identifies potentially hazardous materials or conditions or other significant environmental concerns, the owner shall provide sufficient studies, including but not limited to, a Phase I Environmental Assessment for the County to determine if it can accept title to the parcel(s).
  - aa. If the County is accepting title to the protected parcel(s), no significant environmental or other liabilities exist on the parcel(s), such as but not limited to extensive environmental remediation needs that may preclude the County from accepting title to the property.
  - aa-ba. ~~Or, if~~ If the County determines that title to the protected parcel(s) shall be retained by the current owner or transferred to a third party, a perpetual restrictive covenant shall be recorded against the protected parcel(s), as specified in Section 3514.0504.B.4.b. above, to the satisfaction of the County.
- ~~iv-v.~~ v. The proposed parcel assemblage is consistent with the overall philosophy of minimizing development within rural backcountry areas and/or environmentally sensitive areas, and is consistent with accomplishing other master plan goals and policies/actions. The cumulative impact of the proposed parcel assemblage, taking into account both the developed and protected parcels and potential development thereon, results in the minimization of disturbance within the following areas, to the satisfaction of the Review Authority:
  - aa. Environmentally sensitive areas, including but not limited to wetlands and wetland setback areas, streams, floodplains, slopes 30 percent or greater, avalanche hazard areas and other geologic hazards, critical fish and wildlife habitat, and alpine tundra.
  - ba. Lands of highest visual importance as primarily identified on the Visually Important Lands Map in the respective basin master plan.
- ~~v-vi.~~ vi. When evaluating the suitability of protected parcels, protection of the following areas is encouraged whenever possible:
  - aa. Lands adjacent to publicly owned property which meet the County's open space criteria guidelines and which can combine with other open space properties to enlarge and/or connect existing open space parcels.
  - ba. Lands with significant recreational value, as described in the County's open space criteria guidelines, particularly those with value for non-motorized passive recreational uses not requiring intensive maintenance or management (i.e., lands containing trails or trailheads, or that provide access or extensions thereto; and/or lands that provide opportunities for dispersed passive recreation.)
- ~~vi-vii.~~ vii. The proposed parcel assemblage is consistent with the purpose and intent of the BC Zoning District and all provisions for BC Zoning District parcel assemblages set forth in Section 3514.0504.B.4 of the Development Code.
- d. **Interbasin Transfer Parcel Assemblage:** BC Zoning District properties shall not be eligible to transfer development rights, or square foot equivalents, to other basins to take advantage of the BC Zoning District acreage assemblage thresholds or formulas to increase structure size.

- e. **TDR Banks:** BC Zoning District properties shall not be eligible to acquire development rights, or square foot equivalents, from TDR banks for assembling parcel acreage to increase structure size (i.e., meet or maximize BC Zoning District acreage thresholds and formulas).
- f. **Transfer of Residual Development Rights or Square Footage:** Unused, residual or remnant development right value associated with a BC Zoning District property shall not be sold or transferred as a development right or fraction of a development right. Additionally, the transfer of unused or residual square footage to another BC Zoning District property, to be used as part of a parcel assemblage to increase structure size, shall not be allowed (e.g., if an owner of a 20-acre BC zoned parcel in the Upper Blue Basin chooses to build a 950 sq. ft. home instead of a maximum 1,650 sq. ft. home as allowed per the BC Zoning District, the unused or residual development rights or square footage cannot be sold or transferred, but will remain on the property and be available to the existing or future property owner for potential additions or expansions of the structure on the property).
- 9. ~~5.~~ **Reconstruction of Damaged Structures:** Where a legal nonconforming structure in the BC Zoning District is damaged or destroyed, the structure may be restored or repaired to not more than its original size, provided the restoration occurs within generally the same footprint as the original structure occupied.

**~~C. Roads and Driveways:~~**

- ~~1. Winter maintenance of public and private roads in the BC Zoning District shall be regulated pursuant to Section 3514.03.~~
- ~~2. Where permitted under these regulations, road and driveway construction in the BC Zoning District shall comply with the following guidelines and the site disturbance standards:~~
  - ~~e. **Travelway Width:** Ten (10) to Sixteen (16) feet, with turnouts provided at specified distances as determined by the County Engineer.~~
  - ~~f. **Grade:** Twelve percent (12%) maximum. Grades exceeding twelve percent (12%) may be allowed by approval of a conditional use permit as required by these regulations.~~
  - ~~g. **Design Capacity:** 100 ADT~~
  - ~~h. **Surface:** Gravel or natural surface, no pavement or asphalt is allowed.~~
- ~~3. All roads and driveways shall be designed and constructed using best management practices ("BMPs") to ensure adequate erosion control.~~

**~~C. Parking:~~** A minimum of two (2) parking spaces are required for each residential structure. If off-site parking is proposed, especially for winter access to the property, an adequate parking plan shall be identified as part of the application submittal. Per Section 5507.01, parking within County rights-of-way is not permitted.

**~~4. Recognition of Access Across Private Property:~~**

- ~~e. When a proposed or existing road or driveway crosses through private property or National Forest System lands, an Applicant shall make reasonable efforts to obtain all necessary easements related to such access, and if deemed necessary by the County, the Applicant shall dedicate necessary rights-of-way related to such access to the County.~~
- ~~d. Notwithstanding the foregoing, if an Applicant is unable to secure such rights of access despite appropriate diligent efforts to accomplish the same, the County may, in the exercise of its sole discretion, recognize such allegedly established historic access and allow the construction of a home in the BC Zoning District. The County may allow this, provided the Applicant provides an appropriate combination of the following: (1) bona fide affidavits of prescriptive use of such road or driveway crossing private lands in a form acceptable to the County, or such other form of tangible and demonstrative evidence regarding such claimed historic use; (2) in cases where a new road or driveway alignment is necessitated and approved, express easements across such intervening property shall be required; and (3) in cases where a road or driveway crosses National Forest System lands, evidence of a special use permit, an express acknowledgement or allowance of access from the USFS, or other appropriate demonstration of legal right to cross such National Forest System lands deemed acceptable by the County.~~

**D. Utilities:** All of the utilities discussed under this subsection shall conform to the site disturbance and design standards of Section 3514.05-04 and the other applicable requirements of this Code. Wherever possible,

environmentally-friendly alternatives (e.g., solar power, composting or incinerator toilets) to traditional utility services are encouraged.

1. **Water:** A potable water supply shall be provided. Where practicable, wells shall be located in close proximity to the residence so that minimal site disturbance is caused by placement of the water lines, provided the County's Onsite Wastewater Treatment System ("OWTS") regulations for well separation are complied with. Site disturbance from the drilling and placement of the well shall be minimized.
2. **Wastewater Treatment:** A means of wastewater treatment which complies with the County's OWTS requirements is required. Where a traditional septic system and leach field is proposed, the leach field shall utilize a trench design as opposed to a bed design, if practicable. Where the County determines that it is impractical to access a property with a septic system cleaning vehicle, the Public/Environmental Health Department may require the use of composting or incinerator toilets.
  - a. It is preferred to maintain a hillside's natural character and minimize impacts of septic system design. Therefore, to the maximum extent practicable, septic systems shall be installed in a manner that 1) effectively treats wastewater; 2) minimizes site disturbance; and 23) does not purposely or "incidentally" remove trees to accommodate views and aesthetics as seen from the proposed residence. Installation of a septic system and subsequent clearing of trees immediately ~~downhill-adjacent to from~~ a proposed structure shall be done only out of "necessity" if no other practicable alternatives exist for septic system design and location. The purpose of this provision is not to prevent a property owner from installing a septic system ~~at a lower elevation than close to their~~ residence. Rather, the purpose of the provision is to prevent a property owner from clear cutting trees ~~in front of/downhill from their residence~~ to accommodate views.
  - b. Septic systems shall be designed in the most environmentally and visually sensitive manner possible. The design shall incorporate methods to reduce site disturbance. The Planning Department, in conjunction and cooperation with the Public/Environmental Health Department, shall review the design of the septic system to ensure that disturbance is reduced. For example, trench design may be required as opposed to bed design, if such design mitigates visual impacts and effective treatment of the wastewater can still be achieved. The review of the final septic system design by the Public/Environmental Health Department shall occur concurrently with the Planning Department's review to ensure that site disturbance and visual impacts are mitigated and minimized per the provisions of this section.
  - c. Methods to reduce site disturbance for septic systems shall include, but are not limited to, the utilization of small machinery, selective cutting versus clear cutting. Where septic systems and leach fields are proposed, the disturbance area associated with the septic system and leach field, including any disturbance for access by machinery, shall be outlined in the site plan.
3. **Other Utilities (electric, gas, phone, cable):** Utilities shall be installed underground (below access roads or driveways), unless the applicant can demonstrate to the satisfaction of the Planning Department that other alternatives for placement of utilities would have less impacts.
4. **Generators:** Where generators are used on a BC Zoning District property, the generators shall be placed in a fully enclosed, four-side storage building that minimizes noise impacts. Noise shall not exceed the standards for residential noise as established in Summit County Ordinance 12.
5. **Small Scale Renewable Energy Systems:**

As a means of providing renewable energy, the installation of small scale renewable energy systems for residential use is encouraged on backcountry properties. Small scale renewable energy systems that are incidental and subordinate to a principal use established and located on a property shall be permitted as a use-by-right on BC zoned properties. These systems shall be installed on an individual property and used to provide energy for the principal use established on the property (i.e., on-site use, not off-site use). Small scale renewable energy systems as defined by the Code include, but are not limited to: small scale hydroelectric, small scale wind turbines, and small scale solar energy systems.

  - a. **Installation of Renewable Energy Systems:** When small scale renewable energy systems are installed on BC zoned properties, the systems shall be designed and placed in a manner that 1) exhibits environmental sensitivity, and 2) satisfactorily minimizes impacts to the backcountry character and resources. Significant site grading shall be avoided in the installation and location of such renewable energy systems. The design of such renewable energy systems shall be reviewed on a case-by-case basis when installed on property zoned BC.



- b. The efficient functioning of solar energy systems is of primary importance, and the standards listed in this section are not intended to preclude the installation of solar energy systems on backcountry properties.
- c. Careful consideration shall be given to the integration of solar energy equipment into buildings, whether during construction of a new structure or retrofitting of an existing structure. While recognizing solar strategies to optimize placement and performance, the following standards shall be addressed in the design, approval and installation of solar energy systems:
  - i. **Integrated Installations:** It is preferred that solar be integrated into the design and construction of a new building. For example, integrate solar energy techniques and other mechanical equipment into the overall design of a building, to ensure that the equipment is visually compatible with existing roof pitches and materials.
  - ii **Location of Separate Structures/Ground Mounting:** When solar is not integrated into the design of a building and is separate from the primary structure, the following issues shall be addressed: compatibility with the architecture of the primary structure, location of equipment, visual continuity and screening. A ground mounted solar array does not count towards the maximum permitted accessory structure size, unless the array is subsequently used to shelter vehicles, or for other storage or other purposes.
  - iii **Height:** ~~Solar panels~~Small scale renewable energy systems placed on roofs may exceed the maximum permitted building height (25 feet) by 10%. ~~Solar panels~~Systems placed on the roof of a legal, non-conforming structure, which exceeds 25 feet in height, may exceed the existing roof height by 10%. Ground mounted solar panels shall not exceed 25 feet in height.
    - aa. Administrative Relief: A request for an exception to these height restrictions may be considered pursuant to the provisions for administrative relief in Section 13400 et seq. Administrative relief may be granted if a property owner demonstrates that a functional solar energy system cannot be installed in accordance with these height limits, due to special circumstances applicable to the property such as topography, limited solar access or other unique physical conditions.
  - iv **Site Grading:** Significant site grading shall be avoided in the installation and location of solar equipment.

**E. Site Disturbance and Design Standards:**

- 1. **Site Disturbance and Vegetation Removal:** No earth-disturbing activity (unless involving less than 500 square feet of surface area) shall be allowed unless approved by a building, and associated grading and excavation permit, which have been approved for the property and such plans comply with the plans approved as a part of the required development review process. Earth-disturbance and tree removal other than that indicated on the official plans is prohibited unless such plans are approved in accordance with Section 12001, Minor Revisions or Modifications. All grading permits shall identify the disposal location for any excess materials.

Development, including structures, roads or driveways, leach field areas and utilities, shall minimize the need for earth-moving and site disturbance to the maximum extent practicable. Site disturbance, including vegetation removal, shall be confined to that area needed to reasonably accommodate the footprint of the building, driveways or roads, leach fields, utilities and defensible space for fire mitigation. Structures, driveways, parking areas and utilities shall be located in a manner that reduces site disturbance to the greatest extent practicable. Areas proposed to be undisturbed shall be fenced during construction or otherwise protected from site disturbance to the satisfaction of the Planning Department. Fencing shall include orange construction fencing or a similar alternative approved by the Planning Department. The fencing shall remain in place until a Certificate of Occupancy (“CO”) is issued or until the Planning Department determines the fencing can be removed. Additional site disturbance may be permissible for mining and forestry activities as permitted under these regulations.

- 2. **Slopes:** Where practical and consistent with the other standards of this subsection, structures shall be sited on the portion of the parcel that has lesser slopes. The maximum slope for building sites shall be 30%. Where site conditions would preclude development based on the above standards, the County may allow for some disturbance of sloped areas in excess of 30%, consistent with the slope limitation provisions of Section 7102. Other components of the development including roads, driveways, leach fields and utilities

shall not be located on slopes greater than 15%. Existing roads located in areas with grades exceeding 15% may be utilized if approved by the County Engineer. Retaining walls shall be used to minimize earth disturbance on steep slopes. Retaining walls shall be constructed in compliance with Section 3505.17.D ~~et seq.~~ of the Code.

3. **Streams/Water Bodies/Wetlands:** Soil disturbance and structures shall be setback a minimum of 25 feet from any stream, water body or wetland, and meet all other applicable requirements as set forth in Chapters 7 and 12 of the Code.
4. **Building Design, Materials, and Colors:** Structures shall be of a design that is consistent with the cabins historically built in the backcountry areas of Summit County. Buildings shall be limited to a maximum of ten (10) exterior corners and all corners shall be at 90 degrees and have a minimum roof pitch of 8:12. Primary building materials and colors, including materials used for accessory structures, shall to the extent practicable mimic and blend with those found in the surrounding natural landscape. Use of wood, stone and other natural looking materials is encouraged. Colors shall be earth-tone, dark and/or subdued. The applicant shall provide a color board to the Planning Department showing proposed colors as part of the site plan application. Highly reflective glass or metal surfaces are prohibited (with the exception of solar energy systems), and instead the use of non-reflective glass or non-reflective metal surfaces is encouraged. Windows shall be limited to a maximum of 40% of a wall plane. Fire retardant materials shall be allowed, provided these materials have a natural appearance, and are approved by the Planning Department during the building permit review process.
5. **Fencing:** Permanent fencing is strongly discouraged. All fences shall be constructed to comply with specific BC Zoning District requirements for fencing as identified in Section 3505.17.A.
6. **Exterior Lighting:** Exterior lighting shall utilize full cut off fixtures so that all direct rays are confined to the site and so that adjacent properties are protected from glare as required by Section 3505.07 ~~et seq.~~. An exterior lighting detail sheet indicating the types of fixtures shall be required for all building permit applications.
7. **Tree Removal:** For regulations pertaining to “Commercial Timber Harvest” or any clearing of trees in excess of ½ acre, refer to Section 3514.02 ~~above~~, and for “Fire Mitigation” for new construction refer to Section 3514.0504 ~~-F below~~. Due to the location, high visibility and unique characteristics of BC Zoning District properties, tree removal shall be given special consideration. It is important on BC Zoning District properties to assess and balance the relationship between: maintaining view corridors or visually important lands, protecting or sustaining forest health, and applicable wildfire risk and appropriate mitigation measures. Therefore, it is recognized it is often necessary and appropriate for property owners to conduct selective felling and/or thinning of trees. However, arbitrary or extensive cutting of trees for purposes other than protecting and sustaining forest health or mitigating wildfire risk (e.g., removing trees just to accommodate views and aesthetics) shall be prohibited:
  - a. **Non-Permissible Tree Removal**
    - i. No tree removal shall be allowed outside of the disturbance envelope (as identified on the site plan), except as required for utility installation, driveway construction, fire mitigation, and forest management.
    - ii. Tree removal within a temporary construction staging area is not permitted, unless the tree removal is done for fire mitigation or forest management, in accordance with a County approved fire mitigation or forest management plan.
  - b. **Permitted Tree Removal & Notification Requirements**
    - i. Tree removal deemed necessary for fire mitigation and forest management may be permitted outside of the disturbance envelope upon written approval from the Planning Department, after review and approval of a tree removal plan prepared by a certified forester or fire mitigation officer.
    - ii. Minimal removal of trees on a property that are infested with Pine Beetle or are dead and are located within a Zone 1 or Zone 2 defensible space around a structure may be removed occur without written notification to the Planning Department.
  - c. **Tree Replacement**

For any trees that need to be replaced due to illegal tree clearing, the owner shall submit a Site Plan Improvements Agreement and a performance bond. The replacement trees shall have a two-year warranty period, to be secured by said bond, in order to ensure their successful establishment.

8. **Setbacks:** Setback requirements for properties in the BC Zoning District are identified in Figure 3-6. In addition to the standard setbacks from property lines, setbacks of 100 feet are required from both roads and trails that have been identified as significant winter or summer routes in an adopted master plan. The 100 foot setback requirement from roads and trails in the BC zoning district shall be measured from the edge of the road or trail surface. Setbacks from roads and trails may be reduced pursuant to an administrative review by the Planning Department if one or more of the following exists:
- topography or natural vegetation provides a visual separation such that any buildings or improvements on the site (driveways excepted) do not have a significant visual impact as seen from public roads or trails;
  - if an existing access road serves the building site;
  - if lot dimensions preclude the ability to meet the 100 foot setback;
  - or if reducing the setback would, based on existing site conditions (i.e., steep slopes, wetlands), avoid significant environmental impacts that would otherwise be caused by strict adherence to the setback requirement.
- F. **Fire Mitigation:** All development shall comply with the County fire hazard mitigation requirements for new construction.
- G. **Geologic, Mining & Environmental Hazards:** Parcels or areas subject to geologic hazards shall not be developed for any use that might endanger health and safety, life or property unless the hazards can be eliminated or mitigated in a manner acceptable to the County. Geologic hazards include, but are not limited to: avalanches, landslides, rock falls, mud flows, unstable slopes or soils, ground subsidence, radioactivity, or other environmental hazards such as prospect pits, adits and shafts due to historic mining, etc.

If there is evidence to believe geologic hazards exist on the site, a geotechnical report shall be submitted to the Planning Department with a building permit application, and the proposed site plan shall be referred to the Colorado Geologic Survey for an evaluation of those geologic factors, which would have a significant impact on the proposed use of the land. Site plans and construction shall be designed or conducted in accordance with the recommendations of the Colorado Geologic Survey, unless an Applicant provides evidence acceptable to the County that an alternative design is in accord with sound engineering and planning principles.

#### **3514.0605: Public Trails/Recreation Access**

- Public access on existing public roads, identified as significant winter or summer routes in adopted master plans, or that receive documented substantial current and historic use, shall be preserved or acquired to the maximum extent possible for both summer and winter use. The County shall work cooperatively with owners of property in the BC Zoning District to ensure that through-access on such roads is preserved or acquired.
- Public access on existing trails, pathways and other established routes and trailhead areas for both summer and winter use, identified as significant winter or summer routes in adopted master plans, or that receive documented substantial current and historic use, should be preserved or acquired to the maximum extent possible. Landowners are encouraged to work cooperatively with the County Open Space and Trails Department to address recreational access issues on their properties. The Open Space and Trails Department shall work cooperatively with landowners to attempt to secure access to important trails and established routes.
- Trails shall be kept in their historic alignments to the greatest extent possible. Road and driveway crossings of trails shall be avoided and minimized wherever possible.

#### **3514.0706: Site Plan Review Procedures**

All developments in the BC Zoning District that require a building permit shall be subject to administrative site plan review of the Planning Department. The site plan shall comply with all requirements of Section 12600 et seq. and shall also comply with all requirements of this section. As part of the site plan submittal, a vicinity map of the area, a boundary survey (if required by the Planning Department to evaluate compliance with Section 14101.02.F) and a topographic survey of the area proposed to be disturbed (shown in one (1) or two (2) foot contour intervals) shall be included. Where snow conditions preclude the ability to perform a field visit to a backcountry site, the Planning Department may extend the review period until such time that the site can be reasonably accessed and evaluated. ~~It~~

~~no case shall the extension go beyond the month of June following the date that the building permit application was submitted.~~ In order to determine if a conditional use permit is needed for winter plowing, the site plan shall include: 1) a statement regarding whether an Applicant intends to plow snow, or 2) a statement that access inhibited by snow will be by other means (snowshoes, skis, snowmobiles, etc.).

### **3514.0807: Transferable Development Rights**

Pursuant to Section 3506.02 et seq., where development rights from BC Zoning District properties in designated Sending Areas are transferred to designated Receiving Areas, restrictions on development rights that exist on the Sending Area property as a result of the BC Zoning District designation (e.g., use limits, limited structure size, site disturbance and design standards, road and driveway construction or maintenance standards, etc.) shall not apply to the Receiving Area property the development rights are transferred to.

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### **3801.01: Zoning Districts Where Permitted**

Community Gardens are permitted in ~~all~~ zoning districts with a Class 2 site plan review as designated in Figure 3-2. Community Gardens may be allowed in designated open space areas which are bordered by more developed areas if covenants, easements, or any other encumbrances do not prohibit such use and if the addition of any structures does not exceed the maximum impervious area allowed on that property or within the subdivision as a whole, whichever is applicable.

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### **3815.02: Residential Outdoor Storage**

The regulations in this section are only applicable to residential outdoor storage on parcels of less than 35 acres in the A-1 Zoning District and all parcels in the BC, RU, RE, RME, R-1, R-2, R-3, R-4, R-6, R-25, R-P and MHP zoning districts and areas in PUD, B-1 and B-3 zoning districts allowing residential uses.

- A. **Location:** On parcels of less than 35 acres but not less than 20 acres in all single-family residential development in the County, areas used for residential outdoor storage shall not be in any required setback. On parcels of less than 20 acres in all single-family residential development in the County, areas used for residential outdoor storage other than for the storage of firewood shall be restricted to the side or rear yard of the property. Use of front yards or required setbacks is prohibited except that firewood may be stored in the front yard other than in the front setback if stacked in an orderly manner.
- B. **Screening:** Residential outdoor storage on parcels of 40,000 square feet or less in all single-family residential development and on all parcels in a BC zone district in the County shall be screened, except that firewood that is stacked in an orderly manner shall not be required to be screened. Screening shall be such that items placed in the storage area are not visible from any adjacent lot, road right-of-way, common open space, park or other public area when viewed from the same grade as the area where the storage is to be located by a person of normal adult height (six (6) feet) and of normal visual acuity. Methods of screening may include placing stored items inside a garage or storage shed, using an opaque fence to enclose the storage area or any method approved by the Planning Department which would provide the same degree of screening as an opaque fence. The types and durability of the materials and method used for screening shall be consistent with the character of construction in the neighborhood.

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### **13000: AGENDAS**

All items listed as being reviewed as Public Hearings conducted by the Board of Adjustment, the Board of County Commissioners, and the Planning Commission as provided for in Chapter 13, shall be placed on the agenda as a Public Hearing. Items not required to be reviewed as a public hearing shall be placed on the agenda as follows:

A. New Business Items

1. General Subdivision Exemptions as provided for in Section 8400 et. seq.
2. Work sessions as provided for in Section 12000.C.3 et. seq.
3. Final Plats as provided for in Section 8300 et. seq.
4. Appeal of the Planning Director's determination of whether a proposed modification is "minor" or "major" as provided for in Section 12200 et seq.

5. Appeal of a Class 2 administrative decision.

~~5-6. Backcountry Zoning District Parcel Assemblages as provided for in Section 3514.054.B.4 et seq.~~

B. Consent Agenda Items

1. Lot Line Vacations as provided for in Section 8400 et. seq.
2. Adjustment and Vacations of Lot Lines or Easements as provided for in Section 8400 at. seq.
3. Alterations or Elimination of Plat Notes on Recorded Plats as provided for in Section 8400 et. seq.
4. Right-of-Way Dedication Plat as provided for in Section 8500

~~Backcountry Zoning District Parcel Assemblages as provided for in Section 3514.05.B.4 et seq.~~